

# **EDMONDS CITY COUNCIL APPROVED MINUTES**

## **November 10, 2015**

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds. The meeting was opened with the flag salute.

### **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Adrienne Fraley-Monillas, Council President  
Diane Buckshnis, Councilmember  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Joan Bloom, Councilmember  
Thomas Mesaros, Councilmember  
Michael Nelson, Councilmember

### **ALSO PRESENT**

Ari Girouard, Student Representative

### **STAFF PRESENT**

Al Compaan, Police Chief  
Phil Williams, Public Works Director  
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.  
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.  
Shane Hope, Development Services Director  
Scott James, Finance Director  
Rob English, City Engineer  
J. Speer, Police Officer  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

### **1. ROLL CALL**

City Clerk Scott Passey called the roll. All elected officials were present.

### **2. APPROVAL OF AGENDA**

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO MODIFY THE AGENDA BY MOVING ITEMS 6E AND 6F TO THE BEGINNING OF ITEM 6.**

Councilmember Petso explained both items contemplate public comment; by long standing practice, the Council has public comment at the beginning of the meeting.

Council President Fraley-Monillas explained those items were scheduled toward the end of the meeting because of the number of other items on the issue that need to be addressed and public comment taken such as the budget.

Councilmember Petso preferred to observe the traditional order; there is no reason the people in the audience should have wait around to hear about Item 6A, Council Update on AV in Council Chambers unless they want to. She suggested addressing the items the public was present for and then moving on to the other items of importance.

Councilmember Bloom agreed with Councilmember Petso's suggestion. If the Council does not agree to move those items and they occur at the end of the meeting, she suggested audience members present to speak on either of those items feel free to comment during Audience Comment.

Councilmember Buckshnis said she will support the motion only because the Council has heard from many of the audience members already and she preferred Audience Comment be exclusive of Items 6E and 6F. She also did not think audience members should have to sit through the update regarding AV equipment.

**UPON ROLLCALL, MOTION CARRIED (5-2), COUNCILMEMBERS BLOOM, BUCKSHNIS, MESAROS, NELSON AND PETSO VOTING YES; AND COUNCIL PRESIDENT FRALEY-MONILLAS AND COUNCILMEMBER JOHNSON VOTING NO.**

**3. APPROVAL OF CONSENT AGENDA ITEMS**

**COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:**

- A. APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF NOVEMBER 2, 2015**
- B. APPROVAL OF CLAIM CHECKS #217007 THROUGH #217121 DATED NOVEMBER 5, 2015 FOR \$1,613,041.76. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #61842 THROUGH #61851 FOR \$530,887.75, BENEFIT CHECKS #61852 THROUGH #61859 AND WIRE PAYMENTS OF \$484,878.35 AND REPLACEMENT CHECK #61860 FOR THE PAY PERIOD OCTOBER 16, 2015 THROUGH OCTOBER 31, 2015**
- C. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM CYNTHIA AND WALTER GROEHNERT (\$4,150)**

**4. AUDIENCE COMMENTS**

Mayor Earling explained only this is an opportunity for public comment on items other than Items 6E and 6F.

**Mike Schindler, Edmonds**, speaking as the Chair of Economic Development Commission (EDC), explained he was honored to be selected as the Chair of the EDC and takes the position as facilitator, leader and encourager very seriously. He strongly believes in the 17 member EDC and the diverse knowledge and experience they bring to the City and its leaders. As the Council wrestles with the value and importance of having 17 voices from which to birth ideas or validate the merits of an idea or plan, he encourages commissioners to take an active role in sharing with the Council and others in their sphere of influence the important role the EDC plays in shaping the economic engine of Edmonds. He cited the importance of Town Hall meetings and public input; the 17 members of the EDC appointed by elected officials meet monthly to discuss topics relevant to every citizen in Edmonds who is concerned with the economic sustainability of the City. He was confident the Council will extend the EDC.

**Roger Hertrich, Edmonds**, commented he was at tonight's meeting regarding the crumb rubber issue but there were other issues he was interested in and was missing tonight's debate. He recalled speaking to the Council last week about a Snohomish County public hearing regarding changes that could occur in Esperance and Pt. Wells with regard to multi-family building heights of up to 70 feet, setbacks, etc. Although it was his understanding it was now too late to comment, he requested the Council direct the Council President or staff to contact Snohomish County anyway to inform them the City wants to be involved in the zoning of in this County island. He suggested development in Esperance be consistent with development in Edmonds.

**5. ACTION ITEM**

**A. CIVIC FIELD PURCHASE**

Parks & Recreation Director Carrie Hite relayed a recommendation for the City Council to authorize the Mayor to execute and implement the purchase and sale agreement for Civic Field with the Edmonds School District. She explained Civic Center is an 8-acre site owned by the Edmonds School District and leased by the City. Its central downtown location is surrounded by condos, townhomes and high density living and one block from the downtown shopping area. It is used by thousands of citizens throughout year and is the only large parcel park within walking distance for downtown residents and that can host large community events. Civic Field currently provides the only skate park, the only pétanque courts, the only downtown tennis courts and the only walking track in Edmonds, highly utilized by local youth teams, running clubs, adults and condo dwellers.

She displayed several photographs of activities and events at Civic Field, explaining in addition to daily use, this site is also home to the SnoKing Sports Program and the Edmonds Boys & Girls Club and over 4,500 athletes per year practice and play in leagues at this site. This site is also the only large gathering area in Edmonds and is used to host large community gatherings; events include the Taste of Edmonds, 4<sup>th</sup> of July celebration, Youth Circus and regional pétanque tournaments.

The acquisition of Civic Field is contained in the Comprehensive Plan, the Parks, Recreation and Open Space (PROS) Plan and in the recently adopted Strategic Plan. It has been present in the PROS Plan for the past 25 years and has been a high priority for the City for a long time. In addition to support in all the planning elements of the City, when the PROS Plan was updated recently, all the public comment and the random sample telephone survey identified the acquisition of Civic Field as a top priority.

The appraisal of the property valued it at \$2.5 million for 6 acres. There were no found records of any street vacations on this site; however, both Edmonds and Sprague Streets are shown to have previously run through the parcel. The appraiser recognized this and valued the site at 6 acres instead of 8 acres. The negotiated purchase price with Edmonds School District is \$1.9 million. The School Board still needs to finalize this but a tentative agreement has been reached with the administration.

The City applied for and received two sources of grant funds: a 50% matching grant of up to \$1 million from Washington State Recreation Conservation Office, \$500,000 from Snohomish County Conservation Futures. the City set aside \$400,000 in 2015 in Fund 126 REET 1 for acquisition and Council will need to authorize up to an additional \$100,000 to help finance the remainder. The entire \$100,000 may not be necessary; there have already been some escrow fees, appraisals, survey work, the phase 1 environmental is proceeding now and there will be some closing fees.

Upon closing of this transaction, both the Recreation Conservation Office and Snohomish County Conservation Futures require the City to record a deed of right or conservation easement that limits the property to park use. Because the City already owns two acres, the deed of right will only be required for six acres of the parcel. The City is negotiating with the State and Snohomish County to determine the viability of concentrating these two unrestricted acres on the west side of the property where the current Boys & Girls Club is located.

**COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, THAT THE CITY COUNCIL AUTHORIZE THE MAYOR TO SIGN THE PURCHASE AND SALE AGREEMENT AND CONTINUE THE NEGOTIATIONS AS STATED. MOTION CARRIED UNANIMOUSLY.**

Ms. Hite invited Mayor to sign the agreements now. Mayor Earling invited Council for a photo opportunity as they have been actively engaged in this project as well as Ms. Hite who has been the driver of this project. He commented the negotiations with the School District have been upfront and candid and

there has been give and take by all parties; it has been a pleasure to work with the School District on this project.

Ms. Hite recognized Mayor Earling for his efforts. She referred to an August 29, 2013 unauthorized Council resolution that states, “Whereas the City of Edmonds is interested in purchasing and renovating Civic Stadium in downtown Edmonds, and whereas the City of Edmonds recognizes this property as a valuable community asset; now therefore the Parks Department accepts this first dollar to be used for the purchase of this downtown community asset, donated by Mayor David O. Earling. She displayed a framed photo of Civic Stadium and the dollar bill

## **6. STUDY ITEMS**

### **E. PROPOSED 2016 CITY BUDGET REVENUE PRESENTATION, BUDGET DISCUSSION AND PUBLIC COMMENT**

Mayor Earling thanked the City Council for taking the time to hear presentations from each department; it is important to hear about the good work accomplished over past year as well as the projects and needs in 2016. The budget message described with the hard budget decisions over the past couple years, the recent good work that has been done and the improved economy, revenues have dramatically improved. The beginning of the shift could be seen last year and it continues to accelerate this year. Holding back on spending during the last year was good thing, but the City can now be more confident the economy will hold and the reins can be loosened a bit. The budget emphasized two major areas of increase, 1) catching up with needs such as deferred projects, equipment replacement, aging infrastructure and much needed maintenance on buildings and equipment, and 2) staffing needs. The City’s staffing levels are among the lowest per capita in the Puget Sound Area. From public safety to accounting to custodial to development services, the City needs strategic staff growth. Staff and he have spent countless hours carefully analyzing the City’s needs; directors have worked hard to prioritize their department needs and often compromised among themselves to deliver the budget. Staff and he look forward to working with Council to draw the process to a conclusion.

Finance Director Scott James provided a revenue overview:

- Economic environment
  - The Puget Sound economy continues to be one of the healthiest in the country
  - Home values continue to increase and housing sales remain healthy
  - For 2016, we anticipate stable, modest growth and moderating over the next few years
- Economic Environment benefits
  - The revenue picture for Edmonds will continue to improve in 2016 because of:
    - Strong demand to live in Edmonds
    - Increasing property values
    - Strong real estate sales
    - Low unemployment rates
    - “Pretty darn hopeful”

Mr. James displayed a chart comparing unemployment rates in Seattle-Tacoma-Bellevue, Washington and national January 2005 to September 2014, concluding the Seattle-Tacoma-Bellevue unemployment rate has been trending significantly better than national unemployment rates. He reviewed several comparison for all funds:

- Revenue Trend Analysis Comparison of Revenues by Type FY 2012 – FY 2016 (All Funds)
- Revenue Trend Analysis FY 2012 – FY 2016 (All Funds)
- Revenues Trend Analysis FY 2012 – FY 2016 (All Funds)
- Revenues by type pie chart (All Funds)

He reported 2015-2016 comparison of General Fund Revenues:

- 2015 Year-end General Fund revenue estimates are 1.6% or \$606,000 over 2015 budgeted revenues
  - Majority from sales tax revenues
- 2016 budgeted revenues are \$1.7 million or 4.6% higher than estimated 2015 revenues

He reviewed charts related to the General Fund:

- Revenue Trend Analysis Comparison of Revenues by Type FY 2012 – FY 2016 (General Fund)
- Revenue Trend Analysis 2012-2016 (General Fund)

Mr. James identified General Fund key revenues:

Revenue	2015 YE Estimate	2016 Proposed	Variance	%	Discussion
Property Tax	\$10,040,970	10,142,700	\$101,730	1.0%	Includes 1% Increase
EMS Levy Tax	3,407,740	3,688,090	280,350	8.2%	Includes \$278,598 banked capacity
Sales Tax	6,280,000	6,144,400	(135,600)	-2.2%	Fewer major projects

He displayed a comparison of property tax, advising the proposed budget includes a recommended 1% levy increase:

Year	Total Assessed Value (AV)	New Construction Assessment	Regular Property Tax Revenue from new Construction
2016	\$7,376,182,114	\$43,500,982	\$64,017
2015	\$6,775,458,646	\$26,567,300	\$42,748
2014	\$6,102,411,700	\$20,625,738	\$36,334
2013	\$5,545,239,847	\$29,860,169	\$49,592
2012	\$5,794,644,465	\$21,270,476	\$31,409
2011	\$6,433,258,853	\$18,004,460	\$24,288
2010	\$6,955,482,717	\$18,563,567	\$22,274

Further information regarding property tax and EMS levy will be provided at next week's public hearing on the 2016 property tax levy. Mr. James reviewed graphs regarding:

- Sales Tax
  - 2016 sales tax anticipated to decline slightly as a major project in 2015 will not be repeated
- Motor Fuel Tax Revenue
  - Very little change between years
- REET Revenue
  - 2015 budget anticipated gain of \$330,000 over 2014
  - As of September 2015, over \$2.1 million in REET revenue has been received

#### Public Comment

Mayor Earling advised public comment will be taken at several more meetings before the budget is adopted.

**Joe Scordino**, a retired fisheries biologist and volunteer with Edmonds-Woodway High School, recalled the presentation to the Council last month from Students Saving Salmon Club at Edmonds-Woodway High School that described a water monitoring program they have implemented in Edmonds. The City Council responded favorably and there was a mention of possible funding. The water quality program is a volunteer, citizen science program comprised of volunteers and students with no external funding other than grants they obtained this year that paid for the high quality testing instruments and laboratory analyses of water samples. The group is seeking funds to address unfunded needs that are likely to affect operations in 2016. For example, to date all field supplies have been provided by volunteers, principally

him. As a result of a recent club fair, the number of students in the Students Saving Salmon Club will double which is good news but they only have six orange safety vests. They could also use help with printing and distribution costs associated with outreach efforts. Components of their equipment will need to be replaced next year to prevent deterioration in the quality of information gathering. They would also like to conduct testing for fecal coliform and E.coli in streams or the marsh, a human health issue. The cost would be approximately \$2,000 to collect and analyze one year's samples. The students are committed to providing high quality, scientific information; the Council providing a small amount of funding, such as \$5,000, would be a wise investment in the youth of the community. Mayor Earling invited Mr. Scordino to make an appointment with him on Thursday or Friday to reach an agreement on a proposal to the Council.

#### Council Questions

Councilmember Mesaros referred to motor fuel tax which is fairly flat and asked the impact of the reduction in the price of fuel on those revenues. Mr. James answered one would think revenue would increase because more fuel is sold; however, it is on a per capita basis so the amount does not change.

Councilmember Buckshnis observed several Councilmembers are interested in a legislative assistant for the Council. She asked whether it was better to hire a part-time employee or increase the professional services budget to hire a contract person. She observed the Council executive assistant is on an annual contract. City Attorney Jeff Taraday answered the Council has a 4-year contract for legal services; there was nothing preventing the Council from entering into a contract for more than one year. Councilmember Buckshnis clarified her question was an employee versus a contract person. Council President Fraley-Monillas said she discussed employee versus contract with Sharon Cates, Lighthouse Law Group, who recommended the legislative assistant not be a City employee and have an annual contract. Because the legislative assistant would report to the Council, it would not be appropriate for him/her to be a staff member as staff reports to the Mayor. Mr. Taraday said Ms. Cates does the personnel work for the firm and he would defer to her opinion.

Councilmember Nelson referred to the National Citizens Survey (NCS) and asked whether the City had done that before and what the sample size would be. Economic Development & Community Services Director Patrick Doherty answered the City has done a survey in the past but he was unsure whether it was a NCS. NCS' website outlines a basic package but he felt the sample size was small. The budget for the survey is \$19,000 which includes an enhanced package with a somewhat larger sample size as well as mailings in addition to a web survey and a reminder postcard. If the Council approves the proposed \$19,000, a determination would be made regarding what could be obtained with that amount. The sample size in the basic package is statistically significant, used nationwide in benchmarking communities; he was offering an enhanced version to provide a higher level of confidence in the results. The descriptions can be found on NCS's website.

Councilmember Bloom referred to an additional decision package Development Services Director Shane Hope has prepared: \$6,000 for the contract position to support the Tree Board and \$3,000 for supplies. She expressed concern with the request for a new half time planner position in view of the department being closed Wednesdays and the code rewrite and suggested a full-time position or more. Ms. Hope answered she was always open to more, recognizing there was a great deal of balancing in developing the budget. A half-time employee would be better than none; additional help would make it easier to get things done that need to be done.

Councilmember Bloom voiced her support for a full-time position for the Development Services Department. Mayor Earling agreed with the concern with staff workloads on the second floor. The solution was to continue the full-time building inspector next year who has been assisting this year, include a half-time permit person in the budget as well as a half-time planner and one engineer with most of the position funded via the Utility Fund. The goal was to address the situation and still be somewhat

cautious about the number of staff added at one time. In conversations with Ms. Hope, she indicated with those three positions, the permit counter likely can be open on Wednesdays next year. Ms. Hope agreed that could be done if those positions were funded.

Councilmember Johnson referred to DP #35, addition of a half-time permit coordinator in the Development Services Department and the indication the position would enable the permit counter to be open on Wednesdays. If that is the only thing standing in the way of having the permit center open five days a week, she suggested filling that position immediately and not waiting until next year. Ms. Hope said the decision packages were written including all the positions; if the building inspector position continues and the permit coordinator is added, consideration could be given to opening the permit counter sooner.

Councilmember Petso referred to an \$180,000 transfer on page 57 of the budget book for the Public Facilities District's (PFD) debt service, noting the amount has been the same for 2015 and 2014 although there have been hefty increases in sales tax revenue. She recalled anticipating the PFD would need less help from the City to pay their debt service obligations as sales tax revenue rebounded. She has requested data regarding sales tax revenues for past three years from Executive Director Joe McIalwain and Mr. James. Mr. McIalwain indicated he will provide that information tomorrow. Mr. James agreed the budget includes \$180,000 for that debt service as a placeholder. Mr. McIalwain recently indicated the amount will be substantially less, \$125,000 instead of \$180,000, which he shared with Councilmember Petso, the Council liaison to the PFD.

Councilmember Petso asked whether the request for \$125,000 is for 2015 or 2016. Mr. James answered it is for the bond payment due in later this month. Mr. McIalwain is expecting the amount will decrease again in 2016 to approximately in \$120,000.

Councilmember Mesaros recalled the 5-year revenue projection provided earlier in 2015 did not look very good due to a shortfall in revenues compared to expenses and a deficit was likely. He asked whether a new 5-year projection had been prepared in view of the improved economy and increased revenues. Mr. James answered revenues are up \$1 million for the year; the strategic outlook illustrates 2016 balances are up approximately \$1 million over 2015. That will be drawn down in part due to increasing Fire District 1 (FD1) costs and additional employees. One of the reasons for the optimism in the Mayor's budget message is sales tax continues to outperform expectations, REET revenues are up and building permits are up. If the one large project is deducted from sales tax, even building permits are experiencing a nice increase, good signs overall.

Councilmember Mesaros asked what the City's finances look like in 2020. Mr. James referred to page 13 in the budget book that shows the ending fund balance decreasing from an estimated \$9.9 million this year to \$2.5 million in 2020. Projections get fuzzier in later years.

Councilmember Buckshnis observed staff is still working on the FD1 contract, recalling last year funds were taken from the risk management reserve to provide additional funds to FD1. She asked whether the risk management reserve had been replenished and what the plan was to make FD1 payments in the future. Mr. James explained in the last quarter of 2014 the City received a \$1.6+ million bill from FD1; negotiations with FD1 reduced the amount by approximately \$67,000 as well as allowed the City to pay half in 2015 and half in 2016. In 2016 an additional \$802,000 was added to ongoing costs as well as \$802,000 in 2017. The Council approved a decision package to hire a consultant to negotiate better terms with FD1. Following an interview process conducted by the City Attorney, Mayor Earling and three Councilmembers, Fitch and Associates was selected; meetings are scheduled with Fitch and Associates in December to review their initial analysis, Q&A and return to Council with a full report regarding options. The goal is to determine ways to negotiate more favorable terms but continue providing the stellar levels

of emergency service that citizens expect. Mayor Earling advised the three Councilmembers are Buckshnis and Petso and Council President Fraley-Monillas.

Councilmember Nelson expressed interest in more traffic enforcement, specifically an additional traffic enforcement officer. He observed the Police Department budget currently includes four full-time traffic enforcement officers and asked if that number has been the same over the last decade or has it fluctuated. Police Chief Al Compaan responded for several years there was a sergeant and two motorcycle officers; at some point two traffic officers were added to conduct nighttime traffic enforcement with an emphasis on DUIs. The current budgeted staffing is four plus the sergeant; one position is currently open due to a retirement but a new officer is being trained and will be on his own soon.

Councilmember Nelson observed there are two nighttime traffic officers primarily dedicated to DUI enforcement, and two dedicated to speed and other traffic enforcement. Chief Compaan assured the nighttime traffic cars conduct other enforcement in addition to DUI. The primary focus of the two motorcycle officers who work primarily during daytime hours is traffic collision investigation and speed and rules of the road enforcement. Councilmember Nelson asked whether an additional traffic enforcement officer would be beneficial to the Police Department. Chief Compaan said he would not turn down additional staff; certainly the department could make use of the position, but he has other requests that need to be discussed.

Councilmember Bloom referred to DP #45, Waterfront Access At-Grade Crossing Study \$450,000. She recalled the Council allocated \$100,000 in 2015 and questioned whether the decision package was a request for an additional \$450,000. Public Works Director Phil Williams answered \$450,000 is the expense budget for that study in 2016; of that amount \$383,000 will come from the legislative appropriation and the balance of \$67,000 from the previously approved \$100,000. Councilmember Bloom relayed her understanding \$450,000 is the total amount for next year. Mr. Williams agreed.

Councilmember Johnson referred to DP #9; the narrative describes intent to engage in an RFQ process for prosecution services for the Municipal Court. She asked who will do that work and whether it would require additional funds. Ms. Hite answered funds are included in the budget for a public defense supervisor; his scope of work would include working with the police department, prosecutor and public defender on court efficiencies that may be achieved. There are also funds in the professional services budget, not part of the decision package, to hire someone to assist with drafting an RFQ and vetting of that process, similar to the public defense.

Council President Fraley-Monillas inquired about the projected 21% increase in Hotel/Motel Tax. Mr. Doherty explained it was substantially under-projected in 2015. When the 2015 budget was prepared, 2014 was trending up but in an effort to be conservative, not a great deal of growth was budgeted for 2015. During the first three quarters of 2015 Hotel/Motel Tax is significantly ahead of 2014. The Lodging Tax Advisory Committee recommended budgeting a 4% growth over 2015. The 21% increase includes this year's increase plus the 4% as well as reflects higher room nights and higher rates. He noted this is not just the downtown hotel; there have also been increases in hotels citywide. Council President Fraley-Monillas observed there are 6-7 hotels outside the downtown area. Mr. Doherty commented the 2 larger hotels on Highway 99 are also doing better.

#### **F. CITY OPTIONS FOR ADDRESSING CRUMB RUBBER**

Development Services Director Shane Hope said she is not a scientist and is not an expert on artificial turf although she has learned a lot in the process. Her role is to provide information and facilitate the discussion. She displayed several comments regarding crumb rubber:

- Edmonds parents start turf war over synthetic playing fields” – KOMO News
- “Crumb-rubber turf stirs outcry in Edmonds” – Seattle Times

- The decision to use crumb rubber represents “the best and most prudent use of taxpayer dollars to construct fields with demonstrated sustainability over time.” – Diana White, Edmonds School Board President (email to Council President Fraley-Monillas, July 29, 2015)
- “chemical levels found in FieldTurf SBR and GeoTurf infill do not present a risk to people playing on or using the fields with these products.” – Michael Peterson, Senior Toxicologist, Gradient Turf Report

She explained policies and regulations did not exist at federal, state or local level to clearly provide for the City to prohibit crumb rubber or other materials after the application was submitted. She listed a series of questions for the Council:

- Whether to ban crumb rubber for future use – and if so:
  1. Where and how ban would apply; and
  2. What type of action should be taken to implement the decision

She displayed pictures of the current popular infill products, SBR Crumb Rubber, Nike Grind and GEOTurf, and provided information regarding each:

<b>SBR Crumb Rubber</b>	<b>Nike Grind</b>	<b>GEOTurf</b>
100% post-consumer recycled material	Pre and post-consumer recycled material	100% pre-consumer recycled material
Made from used car tires	Includes raw materials made from used athletic shoes and manufacturing byproducts	Coconut fiber is from coconut processing
Less control over raw material	More difficult to obtain	Cork is the leftover from making wine bottle corks
Less expensive		Requires more ongoing maintenance

SBR Crumb Rubber has gotten the most questions of infill materials:

- Since SBR crumb rubber is made from recycled materials, concentrations of chemicals of potential concern (COPCs) vary between products even among batches from the same manufacturer
- Publicity around the product is largely negative despite the lack of peer-reviewed scientific research linking SBR crumb rubber to health issues
- Product traps heat and can increase temperatures on the playing field

Ms. Hope referred to the following state law: “Every school board of directors shall consider the purchase of playground matting manufactured from shredded waste tires in undertaking construction or maintenance of playgrounds” - RCW 28a.335.300

She listed considerations with regard to whether to ban or not to ban:

- If a ban, on what?
  - Product type
  - Specific chemical
  - Combination of chemicals
- If a ban, where?
  - Projects for which the City is a funding partner, regardless of location?
  - Who owns the property?
    - a) City owned lands
    - b) Publicly owned lands
    - c) All land
  - Specific to sports fields and playfields or also other facilities such as playgrounds?

She described what others have done to address crumb rubber:

- 2008: NYC Parks Department discontinued the use of crumb rubber as an infill material in favor of carpet-style or alternative infill after discovering lead in one of the city's 136 athletic fields using synthetic infill. The reason for banning the material was primarily attributed to the infill's heat performance
  - In addition, they implemented protocols to inspect, test, and replace any existing synthetic turf that may age or deteriorate.
  - Other measures include posting public signage at all athletic fields about potential heat-related risks involving synthetic turf and adopting stringent procurement protocols for materials selection
- 2009: Los Angeles Unified School District discontinued the use of crumb rubber infill, citing lead contamination at some sites and issues with melting fields.
- February 2015: Montgomery County, MD – County Council approves only the use of plant-derived infill materials for new artificial turf playing fields in projects the county funds or contracts.
- May 2015: California State – State Senate Bill 47 sought to ban the use of crumb rubber for two years until the state conducts a comprehensive study on health effects. Note: SB 47 died in California Senate Committee on Appropriations.
- June 2015: Long Beach, CA – the Parks & Recreation Commission approved a recommendation to the city manager for the use of GeoTurf, an organic material primarily made from coconut fiber, rice husks and cork, as the standard choice for all future synthetic field projects in the city.
- August 2015: Middletown, Community Transit – The Common Council voted to amend the \$37 million bond ordinance on park improvements to ensure that the money could not be used to install artificial turf on city fields.

Ms. Hope described other factors to be considered:

- Time-limit or sunset on any ban
- Whether ban is likely to be upheld in court
  - No other cities have imposed a broad ban
- Expectation that a limit on crumb rubber could not be retroactive
- Any unintended consequences
- Any exceptions to ban

She identified key options:

1. Gather specific information and discuss before directing next action
2. Direct attorney to prepare resolution:
  - a. Pledging to not use crumb rubber (or equivalent) in City-funded projects
  - b. Encouraging partners to avoid crumb rubber use
3. Direct attorney to prepare ordinance that identifies:
  - a) Ban on crumb rubber? Or particular chemicals?
  - b) Apply to play/sports fields? Or other facilities too?
  - c) Apply to City-owned properties? All public properties? All properties in City?
  - d) Apply to all projects with City partnership, even if outside city limits?
4. Pledge (by motion or resolution) to help fund demonstration project with alternative materials
5. Decide to take no action until more scientific studies are done

She reviewed considerations if the Council chose to adopt an ordinance:

- Emergency moratorium?
- Part of development code?
- 3 or 5 year sunset to allow further review?

- No sunset?

Ms. Hope relayed if the Council decides to move toward a ban by ordinance, a sunset clause is recommended so that any new information can be considered and the ban renewed or changed in some manner at that time. Next steps may include one or more of following:

- Have another City Council work session to continue the discussion and come to a conclusion
- Ask the Planning Board to provide recommendation
- Direct the City Attorney to draft an ordinance or resolution and if possible, provide direction on what the ordinance or resolution should cover
- Hold a public hearing on any proposed ordinance or resolution
- Make decision

Mayor Earling expressed his appreciation for Ms. Hope's efforts to identify options for the Council.

#### Public Comment

**David Harvey**, Booster President, Meadowdale High School, parent of two active boys, said he sees see crumb rubber in his car every day. He has coached on crumb rubber and has played on it for about 30 years including currently playing in a men's soccer league. He appreciated the efforts to research crumb rubber, agreeing it is a messy substance and more due diligence is necessary. Information available on the internet is all over the board including Earth 911, ScienceNews.org, and the turf company websites. The majority of turf companies provide synthetic, natural and crumb rubber infill. The most important factor with regard to turf material in the Pacific NW is the use; a ban or limitation on artificial turf fields would limit the ability for kids to participate in sports. Play can occur on artificial turf fields for 10+ hours a day versus 4-6 hours on grass fields with 2 day's rest as well as the need for water, fertilizer, and maintenance. Although he understood some have concerns, he pointed out the difference between what has been scientifically proven versus concern and speculation. Professional athletes have played on artificial turf fields for over 30 years, from grade school to their professional careers; a lineman basically eats the turf with their hands all the time. If there were problems, there would be more of an epidemic and more scientific evidence. He urged the Council to look at the evidence and a timeline that would allow more research to better understand the concerns and implications before making a decision.

**Erin Zachey, Edmonds**, encouraged the Council to move forward on a citywide ban on crumb rubber. She expressed continued support for children especially but everyone should be playing on and surrounded by natural materials such as grass and mud. Knowing the potential for this product and how it may be used on new playgrounds and possibly new fields in the City limits, as a citizen she would feel safer knowing alternatives are being used in lieu of toxic turf. Many Edmonds parks and properties are in zoned critical area such as City Park and the Civic Field. Toxins already enter the waterways from runoff, polluting aquatic life as well as their food sources and local native vegetation. Pollutants such as zinc, a known contaminant in crumb rubber fields from their own testing of the existing fields in Edmonds, and petroleum-based derived compounds repress salmon immune systems and growth rates in juvenile salmon and many other species of aquatic life. One method of reducing the human impact on the natural world is to reduce pollution at the source which could be done by banning tires on playfields. She was proud of the Council for hearing the concerns of hundreds citizens, responding to petitions and letters, and 3-minute blurbs of information on this topic for the past many months. She was encouraged to be part of a national movement of awareness on the safe of this product and making better public health and environmental decisions. She concluded with a Dr. Seuss quote, "Unless someone like you cares a whole awful lot, nothing's going to get better, it's just not."

**Ruth Blakey** shared a story of what happened to son who transferred as a freshman from Meadowdale High School to Edmonds Heights. On the first day of school he was invited to play football with other students. The new fields had not yet opened and they played on the space between the playground and buildings. Her son has asthma and finds it difficult to be active so she was happy he was included and

wrote the 45 minutes of football a day into his learning plan for PE. A couple weeks later the fields opened and after playing on the fields for about 15-20 minutes, he had to leave the field to get his inhaler. At the end of the day when relaying the experience to her, they discovered crumb rubber in his shoes and socks. The next day, instead of playing on the new fields, he was alone reading in the library. She concluded the crumb rubber field put a wall up between her son and his ability to play at lunch. She requested one of the two fields planned be non-toxic so her son and others can have an option. She recognized the fields were designed to improve activity levels; for some they actually eliminate the opportunity to be active.

**Cathy Hamilton, Edmonds**, commented everyone knows that crumb rubber contains carcinogens; the debate is whether the levels are high enough to cause cancer and other ill effects; more studies are needed. She pointed out children are particularly receptive to carcinogens because they are developing, their DNA is replicating and all it takes is a few misreads to create a problem. She did not want the community used as subjects in an uncontrolled experiment. Crumb rubber also impacts the natural environment, forever removing a natural habitat for birds and insects and also leaching zinc and other metals. Zinc is detrimental to plants and aquatic life at elevated levels. The State has labeled fields such as those installed at the former Woodway High School as pollution-generating impervious surfaces in the 2012 Ecology Stormwater Management Manual for Western Washington. Unfortunately the application used the 2005 standards; any subsequent applicants should adhere to the 2012 manual. She summarized there were too many risks and concerns with crumb rubber infill. She encouraged the Council to attend the seminary on Thursday sponsored by Senator Maralyn Chase as well as to do the right thing and practice the precautionary principle.

**Isaac Carrigan, Edmonds**, commented he is a kid who wishes to make a difference. He recommended banning crumb rubber. He thanked the Council for their time and those who want to ban crumb rubber.

**Jen Carrigan, Edmonds**, commented many questions have been raised in the City over the past eight months and increasingly nationally. The City Council, School Board Members, Parks & Recreation and parents who want to keep kids healthy and active have sought honest answers to questions. The limited and turf industry-funded studies appear to state crumb rubber is “safe to use.” In response to an NBC investigative report and questioning from members of Congress, the EPA announced yesterday that current studies on the impact of crumb rubber on children’s health are not adequate. In addition to all that is known about toxins and carcinogens contained in tires, the EPA’s announcement gives this community the information and direction needed to make the choice to follow the precautionary principle, to protect children and to ban crumb rubber in Edmonds. In addition to concerns with children’s health, there have been concerns shared regarding impacts of runoff into creeks and Puget Sound. She provided written information which the City Clerk distributed to Councilmembers from Washington State Department of Ecology regarding controlling toxic chemicals in Puget Sound, the harmful effects of certain chemicals of concern including the buildup of these substances in the tissues of organisms that pass through the food chain, harming fish and possibly humans. Crumb rubber contains more than one of the chemicals of concern including zinc which can kill young and adult salmon, PAHs, and fire retardants which can affect development, reproduction and survival of many species. Knowing what we do, she said we cannot continue to pour shredded tire product on fields and think it will not have a harmful impact on health, wildlife and environment. Non-toxic infill options are available; she asked the Council to do the right thing and ban the use of crumb rubber in Edmonds.

**Keely Keef, Edmonds**, an 11-day resident of Edmonds, explained when she was looking at her house, she liked the abundant trees and one day saw a raven fly over. After purchasing the house, she learned it is under the former Woodway High School where crumb rubber has been installed. She previously lived in Seattle Magnuson where park crumb rubber fields were installed a few years ago. During her daily walks in Magnuson Park, she noticed crumb rubber does not stay on the fields, it gets into the grass, onto walkways, and into the wetland/wildlife area. There is also a noticeable odor. Migratory and resident

birds need green spaces; she questioned the effect on birds of ingesting crumb rubber. She also questioned the impact of crumb rubber getting on dogs paws. She agreed open space and play spaces were important for humans and animals; but both can be provided with less impact on the environment. She questioned what was wrong with grass and if this is for children, they need to be taught to enjoy nature or they will never learn to respect it. Natural green spaces are one of reasons she bought a house in Edmonds and she urged the Council to consider a natural option.

**Laura Johnson, Edmonds**, thanked the Council for listening to almost 1000 petitioners who asked for a ban on crumb rubber and for working toward providing protective measures for citizens. The EPA no longer stands behind the safety of crumb rubber and says more testing needs to be done but it is currently a state and local issue. On Monday the EPA spokesperson summed up the concerns, stating current studies are inadequate and new science is needed to answer the questions about turf safety and that existing studies do not comprehensively address the recently raised concerns about children's health risk from exposure to tire crumbs. She encouraged the Council to place a moratorium on the use of crumb rubber, specifically shredded or crumbed SBR on athletic playfields and playgrounds and to further mandate that no City funds will be used toward projects that use crumb rubber until results from future comprehensive, independent studies have determined its safety. She urged the Council not to take a wait and see approach; children should not be used as a science experiment. Her son would love to go back to playing lacrosse, so she would appreciate fields in Edmonds where he could play. She referred to the industry report from Shaw Sports Turf regarding advantages and disadvantages of alternatives and requested the Council consider it as one of their sources but to also obtain additional, independent information on the advantages and disadvantages of alternatives. She provided an informational pamphlet they developed to help educate the public on this issue.

**Christi Davis, PhD, Brier**, said the Kentucky Department of Health and Environmental Protection has declared there are no large scale national studies on the possible health issues associated with inhalation, ingestion or contact with crumb rubber. Research to date has been inconclusive, contradictory, and limited in scope. The Consumer Products Safety Commission has dropped the safe to play on endorsement of artificial turf. In congressional testimony, Chairman Kaye has also stated that its previous endorsement did not reflect the technical staff's view and was a product of an unspecified political effort. Dr. Benoit, the lead investigator of a recent Yale University study on crumb rubber, commented not surprisingly shredded tires contain a veritable witch's brew of toxic substances. It seems irresponsible to market a hazardous waste as a consumer product. This is what these companies have done and the EPA promoted it. She agreed it was irresponsible to market the product in first place and now that student athletes are developing cancer and there is a suspicion that these toxin filled crumb rubber may be causing the cancer, it would be absolute reprehensible to continue using this product without proof the toxin filled crumbs are not the cause. She referred to her two children, pointing out they are not guinea pigs to perform lab experiments on. She asked the City Council to take a stand, to tell the industry it is not acceptable to poison children and if they want to sell products for use for children and those products contain known carcinogens, the burden is on industry to prove the products are safe. Children's health and safety is the number one priority, not industry profits. She asked the Council to ban crumb rubber in Edmonds and ban the use of City funds on crumb rubber products.

**David Anderson PhD** in toxicology from the University of Washington, explained he conducted research on multiple toxins in nuclear power plant effluent so he is familiar with multiple toxins. He is here tonight because Senator Chase, who has grandchildren in the School District, asked him to review the District's information including the Gradient report. Returning to the basics, he said synthetic turf is desirable because it works in the rain and crumb rubber provides padding. He suggested simply using a different pad. Recently Los Angeles specified the type of field they wanted, more fiber and less crumb rubber; a new synthetic turf made by AstroTurf is being installed in Los Angeles with padding underneath. He acknowledged there may still be some toxins in the artificial turf. He concluded there are field turf options that do not contain crumb rubber that should be considered by the City. One of issues soccer goalies have

is they are not standing all the time; they dive into the turf which provides a different kind of exposure, different even than football players. On fields with grass, the grass is often worn off where the goalie stands. He referred to the Yale study that stated there is a cocktail of carcinogens, reiterating there are other options that do not have carcinogens. He urged the Council to get back to basics, it's just padding.

**Andrew Markel, Brier**, provided a quote from the company where he buys tires, "Certain chemicals added to new tires allow rubber to stay soft and flexible longer. Over time and as air migrates through the tire, the chemical's effectiveness weakens, causing rubber to become more brittle and lose strength." He explained tires are designed to be tires, not playground equipment. All tire manufactures have an incentive to continually improve the tires, and are continuously putting new chemicals and processes into the tires so they can function better as tires. Even if every single turf field ever made is safe, there is still no guarantee the next one is safe because tires manufactures continually add new toxic chemicals to their tires to make them better. It is ridiculous to turn a product that is used for tires into a children's product, particularly when they contain toxic chemicals. With regard to finances, he recalled the total budget of the Woodway fields was \$4 million and the cost difference between the crumb rubber infill and the other infill choices ranged between \$250,000 and \$500,000, 10% of the total cost. He questioned the cost of guaranteeing a safer and more appropriate surface for children. The concern everyone has raised is the potential health impacts of crumb rubber, particularly on children because not only are they more affected, they do not have the same choices as adults. Whatever action the Council takes, it needs to apply to where children play so it must include playgrounds, parks and schools.

**Senator Maralyn Chase** appreciated the Council time, was impressed the Council was engaged and listening to the public, and appreciated the well balance presentation by staff. She invited the Council to the Edmonds Senior Center on Thursday for a one-hour presentation by scientists on crumb rubber. She was particularly interested in this issue due to her grandson and recognized many of the parents involved in this issue have a vested interest in children. A bill has been tentatively drafted for a statewide moratorium. Although there are a lot of scientific studies and precautionary statements by the EPA, there is not an authoritative statement by the CPSC. She acknowledged children can be persuasive and her grandson plays goalie on these fields. In her experience, the crumb rubber does not stay on the fields; there are environmental reasons to keep it on the fields. She was hopeful there could be a moratorium on crumb rubber until there was good, solid science. She found it ironic, people want to be green and not put tires in landfills; instead, they are ground up and put on children's playfields. She commented on reports of tires illegally dumped in two places in Edmonds.

**Roger Hertrich, Edmonds**, commented the Council has a chance to be leaders in the health of children, Puget Sound other waterways. He referred to the list of options staff provided and recommended crumb rubber be banned citywide with no exceptions, included in the building code and a time limit established. Citizens will remember whether the City Council was concerned about the public health or making the School District feel better. He anticipated as there will be more restrictions on this product, the School District will experience public pressure. He agreed children need fields to play on; for the coach who spoke tonight he urged the Council to make it easy on him by finding another option for infill. He summarized the issue is public health.

**Mike McCarthy** stated his opposition to crumb rubber. He said this issue started after someone came up with the idea of turf and using tires and the EPA went along with it 15 years ago but it was never tested for safety. He referred to the E:60 show regarding turf that reported 187 athletes, 150 soccer players, 95 of them goal keepers are getting the same kind of cancer. He suggested providing a different material in the area where the goalies play would eliminate half the cancer cases. His research online for an organic infill found GreenPlay natural organic infill. He spoke with the company owner today; the product is dirt, coconut fiber and cork. The cost is \$0.60/pound but 1 pound of their product covers the same area as 2-3 pounds of crumb rubber. He concluded the cost is the same and it is safe; the School District should have looked at the study cited by E:60 and realized the problem.

At Mayor Earling's request, it was the consensus of the Council to move Item 6C next on agenda as the City's lobbyist is present. Mayor Earling declared a brief recess.

Councilmember Buckshnis asked the difference between an emergency moratorium and a moratorium. Ms. Hope answered typically a moratorium is considered an emergency; it can be adopted without holding public hearing but a subsequent public hearing must be held. A moratorium is usually for six months; it can be longer under certain circumstances, and it can be extended. City Attorney Jeff Taraday explained an emergency ordinance goes in effect immediately versus a non-emergency ordinance which goes into effect 5 days after publication or, depending on the nature of the ordinance, in 30 days. Often when a moratorium is imposed on certain types of development and there is worry an application will be submitted and vested, immediate effectiveness is preferred. Councilmember Buckshnis concluded the terms emergency moratorium and moratorium are the same. Mr. Taraday clarified there is a difference; under the GMA, a moratorium can be adopted without it becoming effective immediately.

Council President Fraley-Monillas inquired about the environmental, health impacts, etc. of any of the other infill materials. Ms. Hope answered there are several other infill materials; she knows only a little and could bring back more information. Council President Fraley-Monillas assumed Nike Grind would have fewer chemicals than tires. Ms. Hope agreed that would be the assumption because it was processed for human wear versus a byproduct of another product. Council President Fraley-Monillas asked the environmental impact of SBR, Nike Grind and GEOTurf. Ms. Hope answered not a huge amount is known; tires, especially used tires, have been exposed to a lot more chemicals and toxins than Nike Grind and other materials. Nike Grind or an equivalent is also not a pollution generating material. Council President Fraley-Monillas asked whether stormwater runoff from a field with Nike Grind would include chemicals. Ms. Hope answered there are chemicals in nearly everything but it would not have the same level of chemicals as used tires. Council President Fraley-Monillas appreciated Ms. Hope's work on the presentation; it provided very objective information.

Councilmember Mesaros observed Ms. Hope's presentation referred to State law that requires every school board of directors shall consider the purchase of playground matter manufactured from shredded waste tires and asked how that would impact the Council's decision. Mr. Taraday answered not at all.

Councilmember Mesaros referred to a letter the City Council and the Mayor received from Perkins Coie representing the Edmonds School District with regard to a crumb rubber ban. Mr. Taraday said he has seen the letter but has not had an opportunity to scrutinize it. Councilmember Mesaros looked forward to Mr. Taraday's opinion before the Council made its decision. Councilmember Mesaros recalled the City Council took a leadership role in banning plastic bags in the City. He asked whether the City had imposed any other bans via ordinance. Mr. Taraday did not recall any; pointing out whether other cities have done it before is not the test the courts will apply.

Councilmember Johnson observed the information presented tonight addresses primarily infill. There are other components to artificial turf that include the turf grass itself and the underlayment and padding which is typically also made from tires. One of the options she wanted staff to consider was a resolution affirming that only natural grass and earthen materials would be used for sports fields in Edmonds. Natural systems are the safest and the best for the environment although she acknowledged there were components to natural systems as well. She did not think there was 100% agreement regarding which was the best playing field which was why the Mariners have grass and the Seahawks have artificial turf.

Councilmember Petso asked whether Councilmember Johnson meant resolution or ordinance. Councilmember Johnson answered she said resolution but perhaps she did not mean that. Councilmember Petso inquired about the effect of a resolution versus an ordinance. Mr. Taraday answered ordinances are laws; resolutions are policies. Resolutions are used to establish policy for internal City purposes such not

spending City funds on crumb rubber. If the Council wanted to affect other parties' behavior, an ordinance would be required.

Councilmember Petso expressed support for an emergency ordinance to provide the advantage of it taking immediate effect and then going to the Planning Board. If the Council moves forward with an ordinance, the typical path would be for the matter to go to the Planning Board for several months before they provide a recommendation.

Councilmember Johnson said she did mean a resolution; she preferred a policy for only City owned property. The ability to affect change on private property is limited and it is too late to make any changes with regard to existing crumb rubber fields.

Councilmember Petso agreed at this point it would be difficult make changes to newly redone fields but she suggested an ordinance apply to new and substantially renovated fields. This would prevent additional tire dumps on public property but would allow the fields that were just installed to run their natural 10-year course absent scientific reasons that would require the crumb rubber to be vacuumed up. She recommended the ban apply to public properties. If the Council chose a 3-year sunset, there would be time for a great deal of new science to inform the Council's decision.

Councilmember Mesaros asked Councilmember Petso her definition of public property. Councilmember Petso answered it would be land owned by a public entity including the City, the School District, the Port, the Hospital District and various public entities.

Council President Fraley-Monillas suggested getting more information regarding field options, recognizing there were more than just the three Ms. Hope described. Ms. Hope agreed there were several others; she could gather information for future discussion. Council President Fraley-Monillas suggested hiring a person to work for the City to provide that information, not someone who reports to the School District, Verdant, etc.

Councilmember Buckshnis said an emergency ordinance was not needed as she did not consider this an emergency. The Council agrees about crumb rubber and needs to be pragmatic about it. If the City decided to ban crumb rubber, the City could no longer partner with the School District and Lynnwood on the Meadowdale fields. She recommended the Council consider all alternatives. Although the City may not want crumb rubber, it is the School District's property. She felt it was an inappropriate application of democracy for the City to ban the School District's use of crumb rubber and the result may be the City does not have any fields for citizens' use. She was in favor of a moratorium, an ordinance or a resolution but not on all public property.

Councilmember Bloom agreed wholeheartedly with Councilmember Petso that a ban should be on all public property. She pointed out the School District does not own the property; it belongs to the public because the School District is supported by the taxpayers and the Council has every right to regulate all public and private property within the City's jurisdiction. She did not recommend the City regulate the use of crumb rubber on private property at this point but supported a ban on the use of crumb rubber on all public property. She supported adopting an emergency ordinance to allow the process to begin immediately and to have it expedited through the Planning Board so that regulations could be in place as soon as possible. With regard to further research regarding organic alternatives, she said that was beside the point; the Council has a great deal of information and can easily get more. Directing staff to gather information would just delay what the Council must do, ban crumb rubber for the safety and health of children.

Council President Fraley-Monillas commented if the School District property belonged to the public, why hadn't the public stopped the School District from putting crumb rubber on the fields. She expressed

concern with government interfering with private property rights, whether it was individual citizens, the Hospital District, etc. She would not allow her child to play on crumb rubber; that is a choice as a parent she can make. Because of her concern with interfering with private property rights, she will vote for property rights but would support a ban on crumb rubber on all City property due to the unknowns. She pointed out there are citizens who have turf in their yards. She looked forward to what the EPA says, Ms. Chase's bill and what the state decides, but until then she was opposed to banning crumb rubber on any property other than City-owned property.

Councilmember Nelson asked what latitude Council had in exercising its police powers to protect the health and safety of citizens. Mr. Taraday answered the City has very broad police power authority; he referred to Article 11 Section 11 of the Washington State Constitution that allows the city to make and enforce within its limits all such local police, sanitary and other regulations that are not in conflict with general laws; RCW 35a.01.010 gives the City the broadest powers of local self-government consistent with the constitution of the state. That has been interpreted very broadly in a number of instances; there is no case law locally or nationally with regard to the ability to ban crumb rubber but he believed the City had the power to do that if it wanted to.

Councilmember Mesaros commented he was not a fan of crumb rubber and did not think there was a place for it in the City but he was concerned with the Council overreaching its bounds and jeopardizing the City's assets. He was interested in Mr. Taraday's comments regarding the letter from the School District's attorney. There is still debate about crumb rubber and although he preferred to fall on the side of caution, a moratorium seems to be the right path so that that debate can occur to determine if the anticipated cause and effect is true. He was in favor of a moratorium on the use of crumb rubber in the City to the fullest extent that can be done and not jeopardize the City's position in any future liability.

Councilmember Bloom expressed support for Councilmember Johnson's resolution to use only grass on future fields. She suggested a ban and a resolution regarding the use of grass could be done simultaneously. She was hopeful Mr. Taraday would return soon with draft ordinances for Council discussion, perhaps next week.

Student Representative Girouard said grass fields would be somewhat realistic for City property as there are no City fields with turf and would show good leadership. She viewed a ban on crumb rubber as a long term issue because the field at Edmonds-Woodway High School was just replaced. The Edmonds-Woodway High School field is used by schools through the School District which includes Lynnwood and Mountlake Terrace High Schools so a grass field would not allow daily use. She suggested the Council consider how much use the City-owned fields get.

Mr. Taraday said he did not have enough direction to draft anything yet. As Ms. Hope pointed out in her presentation, there are myriad permutations of what the Council could do via an ordinance or resolution; requesting he provide drafts was too broad as he had no idea what the Council's direction was.

Councilmember Petso relayed it sounds as though the Council was in agreement on an ordinance and/or a moratorium; the primary area of disagreement is whether it would apply to City property only or to all public property within the City. The product to be banned would be SBR crumb rubber on parks, playfields and playgrounds, it would be revisited in a 3-year interval, and it would not apply to existing fields, only new or fields that are substantially renovated in the future. The only thing still to be researched is the extent of the legal ability and/or desire to regulate non-City owned property.

Councilmember Mesaros asked for clarification regarding playground and playfields, commenting there are many playgrounds that are not on public property. Councilmember Petso said the extent of the coverage, whether City property or all public property would be left for further discussion because she had not heard from all Councilmembers.

Council President Fraley-Monillas relayed her understanding some playground surfaces have tires in them but the intent was to make playgrounds more ADA accessible. She noted it is very difficult to push a wheelchair through rocks or sawdust. She was nervous about formulating ideas without sufficient information. Parks & Recreation Director Carrie Hite explained playgrounds across the nation have a newer product, poured-in-place rubber, that provides fall protection for playground equipment. All the City's playgrounds have wood chips. One of the issues in the PROS Plan update last year was increasing the accessibility of playgrounds. This is one of only products that does that and also provides fall protection. She recalled one citizen who was very involved in that discussion during the PROS Plan process. One of the goals is to add a poured-in-place playground in one of the City's community parks so that at least one park offered accessible options. She offered to provide more information on the poured-in-place material; it includes crumb rubber but it is not pulverized and with a layer on top to encase the rubber. That goal is included in the Comprehensive Plan and would need to be changed if the Council adopted a ban on crumb rubber in playgrounds.

Council President Fraley-Monillas commented without that surface ADA accessibility would be limited. Ms. Hite explained the manufactured woodchips the City uses are considered accessible; they are easy to walk on but a wheelchair cannot be pushed on the woodchips. As many pathways as possible are provided to/from a playground to make them close in proximity to accessible routes but a person in a wheelchair would need to be carried from their wheelchair to, for example, a swing. That is not an issue when children are small; the citizen involved in the PROS Plan process has a 12-year old son and she cannot physically him carry from his wheelchair to a swing. That citizen specifically asked the City to consider this product and she had a great deal of public support. Council President Fraley-Monillas pointed out it would provide accessibility for wheelchairs as well as people using walkers.

Councilmember Petso suggested it would be simpler to only refer to playfields in the ordinance.

Councilmember Buckshnis suggested another study session before making a decision as she still has questions about the infill, the timing and the impact of all the activities that are occurring and how a ban would limit the City's ability to provide fields for adults.

Councilmember Petso asked Ms. Hite to comment on the affect a moratorium on SBR playfield materials would have on scheduling. Ms. Hite commented inherent in Councilmember Buckshnis' question was reference to Meadowdale as well as the Interlocal Agreement (ILA) with the School District for the Woodway Fields. Councilmember Petso said she was no aware the Council was specifically addressing Meadowdale tonight, only what would be done within the Edmonds city limits. Ms. Hite said one of options being discussed was not financially supporting crumb rubber inside or outside the City. That would impact the project in the Comprehensive Plan and PROS Plan to continue the partnership at Meadowdale Playfields with Lynnwood, Snohomish County and the Edmonds School District. Lynnwood is currently taking the lead on the project as it lies within their boundaries, beginning to write grants and put together funding to rehab the fields. The first phase is the soccer fields which Edmonds does not use. The second phase is the softball fields; Edmonds has a robust adult softball league at Meadowdale. If the City was not able to be at the table financially, it is likely the ILA with the School District for use of the Meadowdale fields would be terminated. Edmonds does not play youth sports at Meadowdale fields; Lynnwood does. The impact on the ILA with the School District on the Woodway Fields would be the City would not schedule or maintain the fields. The fields are complete and the School District is scheduling them and the community has access. The School District's rental rates are significantly higher than the City's rates which impacts access for nonprofit sports leagues.

Councilmember Mesaros asked if the City sponsors leagues that play on the Woodway fields. Ms. Hite answered not at this time; the City has been approached about sponsoring lacrosse and ultimate leagues.

Ms. Hite was uncertain whether the ban would include programming; the City could still program and rent the fields from the School District.

Council President Fraley-Monillas inquired about the status of the ILA for the Woodway fields. Ms. Hite said Mr. Taraday sent the ILA to the School District and it was in their court for a long time. The School District's attorney finally sent the ILA to Mr. Taraday; the changes the School District made were limited to the current fields and not any future fields. Staff is crafting language to push back on that to allow some decision-making on future fields.

Mayor Earling summarized it appears there are still unanswered questions and more discussion may be needed. He suggested scheduling a meeting specifically on this issue on Thursday, November 19. Two Councilmembers indicated they were unable to attend on November 19. It was the consensus of the Council to schedule further discussion on December 1 and a decision on December 8.

### **C. PRESENTATION AND DISCUSSION OF DRAFT 2016 LEGISLATIVE AGENDA**

Economic Development and Community Services Director Patrick Doherty explained Lobbyist Jennifer Ziegler will provide an overview and expectations for the upcoming 2016 legislative session which has informed the City's agenda. Mayor Earling recognized the yeoman's work Ms. Ziegler did during the past legislative session.

Ms. Ziegler described things that happened in the election that will impact the legislative session:

- A republican beat the democrat in the 31<sup>st</sup> District which reduces the House democratic majority by one, a 50-48 split between democrats and republicans in the House
- Passage of I-1366
  - Initiatives have passed in the past that require any tax increase by the legislature be adopted with a super majority vote or referred to the people. In several instances, the Supreme Court has said those initiatives are not constitutional; the State Constitution has a process for adopting taxes and changing that process requires an amendment to the State Constitution
  - I-1366 stated if the legislature does not send a constitutional amendment to the people to require a super majority vote, it will trigger a decrease in the state sales tax rate. The impact of the state sales tax decrease is about \$1.5 billion/year.
  - Things to watch include:
    - Whether opponents of the initiative who have filed court challenges will go back to King County Superior Court
    - Whether there will be a push for immediate consideration by the State Supreme Court who declined to consider it before in reference to the initiative process
    - Whether there won't be a court action prior to the start of the legislative session and the legislature will grapple with this super majority requirement
    - A couple senators intend to introduce the constitutional amendment proposal on the super majority

She reviewed challenges in a short 60 day session, expecting it will 60 day session, not a marathon session like last year:

- There is still a significant education issue and it will be a dominant conversation topic during the session. The legislature provided significant additional funding for basic education at the end of the last legislative session
  - Upon adjournment the Supreme Court said it was not enough, there was not a sufficient plan for how the state planned to fully fund basic education and the Court issued fines for the legislature beginning at that time of \$100,000/day
  - Groups of legislators have met with the Governor and public meetings have been held on education funding needs

- Department of Natural Resources received \$27 million in their firefighting budget when the legislature adjourned last year. They intend to request \$137 million that was not funded and the costs assessed in the multiple wildfire instances during the past summer as well as additional funds for mitigation, preparation and planning.
- At the end of the summer the Supreme Court invalidated the State's charter school law. Both sides of the aisle are expected to have significant conversations.

She commented the above issues alone would be a full 60 days. In a 60 day legislative session, bills that did not pass in the previous legislative session are still alive. She highlighted other local government issues:

- Ensure budget issues do not affect shared revenue conversations that occurred during the last legislative session. Monitor liquor revenues, Public Works Trust fund and marijuana revenues for some cities
- Homelessness, affordable housing and mental healthcare issues
- Broader public records
  - Legislation was proposed in the last session to allow local governments to charge for the cost of producing records that were request for a purely commercial purpose. A robust conversation regarding this issue is expected.
  - A bill was proposed that would allow government to charge based on megabytes of data
    - Although the bill did not pass, the legislature directed the State Auditor's Office to do an analysis of what it costs to produce electronic records but the report will not be available until after the legislative session ends so a more significant discussion regarding electronic records costly likely will not occur until next year.
- Expect thorough conversation regarding body cameras
  - More cities are hearing from constituents about interest in using body cameras
  - People are concerned with the lack of standard requirements for the use of body cameras, retention of data and public records request for the data

Ms. Ziegler highlighted other big policy issues:

- Interest in having money in the transportation package moved between bienniums
  - For some funds to move forward, other funds will have to move back
- Continued conversation regarding carbon
  - The Governor directed the Department of Ecology to go through a rule making process on a permit that limits emissions
    - Legislation is expected related to that action and the DOE's authority
- Minimum wage and paid sick leave
- 25-year anniversary of the GMA
  - Potential to bring in an outside group to analyze the GMA and make recommendations on potential changes

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO EXTEND THE MEETING UNTIL 10:30 PM. MOTION CARRIED UNANIMOUSLY.**

Mr. Doherty reviewed proposed agenda items:

- Actively pursue
  - Accelerate funding for the SR 99 Edmonds Gateway project
  - Capital project funding for Frances Anderson Center \$350,000
- Support:
  - Bolster resources of infrastructure investment
  - Public records cost recovery and privacy
  - Public defense costs

- Emergency responsiveness
- Rulemaking and fiscal notes
- Property tax growth
- EMS Levy increase
- Washington Wildlife and Recreation Program (WWRP)
- Clarify and reinforce Recreational Liability Immunity for multipurpose trails

He identified items to monitor and potentially support:

- Growth Management Act review
- Human services, homelessness and affordable housing
- Fiscal sustainability
- Advanced Composites Center Manufacturing Institute
- Washington Tourism Marketing Authority
- Supplemental funding for Coordinated Prevention Grants
- Public health
- Improve Washington State's economic climate
- Increase funding for local economic development programs
- Reinstate Research and Development Tax Incentive
- Workforce Development – Career and Technical Education
- REET for affordable housing
- Local Option Housing Presentation Property Tax Exemption
- Governor's "Healthiest Next Generation" Initiative

Councilmember Buckshnis recalled last year the legislative agenda included support for the Edmonds Senior/Community Center but it is not included this year. Ms. Ziegler answered \$1.25 million capital budget request was funded last year. Councilmember Buckshnis said there will be another capital request this year. Mayor Earling agreed support for that request could be added but staff's primary priority was a capital request for a new roof for the Frances Anderson Center.

Councilmember Johnson thanked Ms. Ziegler for the work she does for the City and congratulated her on the transportation bill. She observed the list of monitor and potentially support did not include any environmental issues. She suggested issues that could be monitored include crumb rubber, Puget Sound water quality, salmon recovery, NPDES implementation, statewide drought and climate change. She recalled Representative Peterson was looking at issues such as bees and paint recycling. Ms. Ziegler expected a conversation on toxics as it was one of the Governor's agenda items that did not pass.

Councilmember Petso observed the Emergency Responsiveness item included authority to ban fireworks during dangerous situations; she pointed out Edmonds already has a ban on fireworks. Ms. Ziegler answered that was from AWC; implementing a ban takes a year to take effect. There were cities in the State last year in a dangerous drought conditions that were unable to institute a ban on fireworks. This effort would provide flexibility in the one year timeframe.

Councilmember Petso referred to the EMS Levy, observing the request was to amend the current EMS levy limit of \$0.50/\$1,000 of assessed valuation to \$0.75/\$1000. Mr. Doherty answered Edmonds is not specifically asking for that but if legislation is proposed, the City would consider supporting it. Councilmember Petso asked whether transport fees had not closed the gap on the cost of emergency medical service. Mr. Doherty offered to obtain more details. Mayor Earling said this is a statewide issue not necessarily at the local level. With regard to property tax, Ms. Ziegler said there was not as much conversation regarding this topic as expected during the last session but there was a significant push from counties to raise the 1% cap to the Consumer Price Index or other inflationary approach. The argument is as costs increase, the revenue source should also increase to accommodate those costs. She expected

conversation but was doubtful any change would be made in a short session. Mr. Doherty said both property tax growth and EMS levy would be local options; the City's support would be for fellow jurisdictions considering it.

Council President Fraley-Monillas expressed support for moving up funding for Highway 99. She noted an issue not reflected on the agenda is coal and oil trains and preventing them from going through Edmonds. Ms. Ziegler reminded a significant piece of oil train legislation passed last session and implementation lies with different agencies such as DOE's rule making process that she is watching. Because that was such a success, it is not expected that legislation would be revisited in the next session.

Council President Fraley-Monillas asked for a report on that, recalling the Council passed a resolution in opposition to coal trains, noting oil coal trains also affect the potential increase in train traffic through the City. With regard to oil trains, Ms. Ziegler offered to provide an update on Ecology, Utilities and Transportation Commission's significant rule making processes. With regard to train traffic, the Joint Transportation Committee was directed to do an analysis of at-grade crossing which is related to the increase in train traffic. Although there may not be a great deal of focus on that during the legislative session, there will be discussion during the 2016 timeframe. Mayor Earling commented if Ms. Ziegler calls indicating there will be a hearing related to a certain issue, staff will respond. Mr. Doherty commented the legislative agenda is not every possible issue the City may be concerned about. These are in response to things that arose last year but did not get resolved or issues that other communities/organizations will be pursuing. Some of the things that are not mentioned will not be addressed due to the short session but the groundwork for following session is being laid. Ms. Ziegler provides staff weekly reports; if a significant arises, staff will seek direction from the Council.

Mayor Earling requested Councilmembers provide additional questions to Mr. Doherty who will forward them to Ms. Ziegler for response. He also requested Councilmembers forward any questions related to the budget to staff.

#### **A. COUNCIL CHAMBERS A/V UPGRADES PROJECT**

Mr. Williams reported there is \$195,000 in the 2015 budget for upgrades to Council Chambers for Council and Court activities. He sought Council authorization to go out to bid. The consultant, James Diego who is present to answer questions, has been working with Facilities Maintenance Manager Jim Sevens, Mr. James and himself on the design of the improvements.

Councilmember Johnson asked Mr. Williams to describe the improvements. Mr. Williams said the dais will be modified to better incorporate the use of laptops and/or iPads, the audio system upgraded to be more reliable and have higher audio quality, and new projectors, new screens, new direct view monitors installed. He summarized the existing equipment is old, it is difficult to difficult get parts or software and needs to be replaced. **James Diego** explained the audio quality will be upgraded so audience members and Councilmembers/Court can hear better. The camera quality and video equipment will be upgraded to high definition (HD). Streaming will be captured in HD; however Comcast does not allow the Council HD bandwidth. Control of the system will improved with a new touchscreen system to assist operators capturing meetings.

Councilmember Johnson commented it is often difficult if not impossible to see the projection screen and asked how that will be improved. Mr. Diego answered each position at the dais will have their own small screen and the projection system will be upgraded to a much brighter projector that does not require the lights to be turned off. The position of the projector will also be moved to the other side of the room so audience members are not cut off and there will be a direct view monitor behind the jury box to allow The Court to view material.

Councilmember Johnson asked whether there will be an electronic system to assist the Mayor with identifying when Councilmembers want to speak. Mr. Diego answered there will be a discussion system that allows the Mayor to control who speaks and for Councilmembers to request an opportunity to speak. Each microphone will have a speaker so Councilmembers can hear what is said as well as a jack for a hearing aid or headset. Voting functions will also be incorporated and can be displayed on the screen.

Councilmember Nelson commented the upgrades sound fabulous and asked how soon they would be implemented. Mr. Williams answered the design and spec'ing of the equipment is being finished. A budget adjustment will be required as it will not be completed this year. He anticipated installation of the improvements would take two weeks to complete but it will be challenging to find time when the room not being used to make the improvements.

It was the consensus of Council to schedule this for approval on next week's Consent Agenda.

**B. PRESENTATION OF EASEMENTS FROM EDMONDS-WOODWAY HIGH SCHOOL FOR THE 76TH AND 212TH INTERSECTION IMPROVEMENTS**

City Engineer Rob English explained this is a right-of-way acquisition from the School District at Edmonds-Woodway High for the 76<sup>th</sup>/212<sup>th</sup> Intersection Improvement Project planned in 2016. The City will acquire approximately 8,600 square feet of right-of-way along with 3,800 square feet of construction easement. The appraisal totaled \$201,200; approximately \$150,000 for land acquisition, \$6,600 for the temporary construction easement, and \$45,000 for landscaping and electronic sign. The School District accepted the offer and staff is requesting approval of the documents on next week's Consent Agenda.

Councilmember Bloom asked how the per square foot value was calculated. Mr. English answered it was \$17.35 as determined by an appraisal. An appraisal was done by a certified appraiser and because this is a federally funded project, it was reviewed by another appraiser.

It was the consensus of Council to schedule this for approval on next week's Consent Agenda.

**D. DISCUSSION OF FUTURE OF CITIZENS ECONOMIC DEVELOPMENT COMMISSION**

This item was moved to next week.

**7. MAYOR'S COMMENTS**

Mayor Earling reported he had a fabulous time in Arizona, spending time with his 2½ month old grandson. He reported City Hall is closed tomorrow for Veterans Day and urged everyone to thank a veteran for their service.

**8. COUNCIL COMMENTS**

Council President Fraley-Monillas agreed tomorrow was a day of remembrance. She reported on the ribbon cutting of the new Edmonds-Swedish emergency room, commenting it was absolutely the most fabulous, state-of-the art facility anywhere in the Puget Sound area and suggested Councilmembers arrange a tour. The new emergency room opened at 3:00 a.m. today.

In response to public comment regarding zoning for Esperance, Councilmember Petso advised Snohomish County is proposing significantly greater density and other things that are not consistent with development in Edmonds. She asked the Mayor and Council President to consider how the City could respond to Snohomish County prior to the County's final decision.

Councilmember Bloom referred to an email the Council received today from a citizen with four points related to the expiration of the Hearing Examiner's contract at the end of 2014. She provided Ms. Hope's response to her inquiry: "In looking more carefully at the four statements you referenced, I believe they boil down to the following question: Did the four year contract for our Hearing Examiner, Phil Olbrechts, expire? The simple answer is yes." Councilmember Bloom relayed her understanding there is an RFQ out for a new Hearing Examiner. Given that the Hearing Examiner's contract expired at the end of 2014, she asked Mr. Taraday the status of decisions made by Mr. Olbrechts in 2015 since he was not under contract with the City during that time. Mr. Taraday responded he just found out about this today and has not had enough time to fully research all the possible angles in the question. Councilmember Bloom requested he return to the Council with answers very soon.

Student Rep Girouard cautioned everyone to drive safely, anticipating they were tired.

9. **CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

This item was not needed.

10. **RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

This item was not needed.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 10:36 p.m.